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August 21, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: CC Docket 96-115; Notice to Federal Communications Commission
(Commission) Concerning CPNI Opt-Out Mechanisms Under 47 CFR
§64.2009(f)**

Dear Ms. Dortch:

This letter is provided to the Commission by BellSouth Corporation on behalf of its local exchange carrier affiliate, BellSouth Telecommunications, Inc. (BST). Commission rules (47 CFR §64.2009(f)) require that carriers provide written notice to the Commission "of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly." Described below is a set of circumstances that BellSouth believes represented an anomaly in a limited number of consumers' ability to opt-out. Notwithstanding BellSouth's position that the reporting obligations of 47 CFR §64.2009(f) are not triggered by the events described below, BellSouth has elected to notify the Commission of these circumstances.

On August 14, 2003, the BellSouth Legal Department and BellSouth's operational CPNI subject matter expert were informed that in late February, 2003¹, a BellSouth small

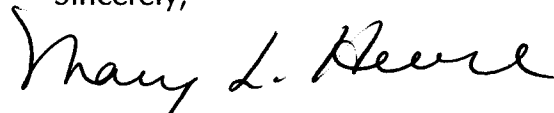
¹ BellSouth's compliance organization includes CPNI Coordinators for each unit. Following the release of the Commission's Third Report and Order in the referenced docket (FCC 02-214), the CPNI Coordinators were notified of the requirements set forth in the rules adopted pursuant to such Order, including, without limitation, the requirements of 47 CFR §64.2009(f). Despite this communication and subsequent reinforcement of the reporting requirement, the circumstances set forth in this letter were not timely disclosed to the BellSouth Legal Department or to BellSouth's operational CPNI subject matter expert, so that a determination could be made as to the applicability of 47 CFR §64.2009(f). Upon learning of these circumstances on August 14, 2003, it was determined that BellSouth would file this letter with the Commission, notwithstanding BellSouth's position that these circumstances represent an anomaly in a limited number of consumers' ability to opt-out. In addition to the specific actions outlined in this letter with respect to the customers sent the notice with the incorrect toll free number, BellSouth is reinforcing its guidelines concerning the need to timely escalate any suspected breakdown or failure of its opt-out processes.

business customer had contacted BellSouth indicating that the customer was unable to opt-out by calling the number referenced in the CPNI notice sent to that customer by BellSouth (a sample copy of this notice is included as Attachment 1). At that time, BellSouth's small business organization determined that the notice sent to the customer included a typographical error. The error was corrected and all subsequent notices included an accurate number to call to opt-out.

BellSouth's review of this situation subsequent to August 14, 2003, has revealed that during the first three months of 2003, a limited number of small business customers in each of BellSouth's in-region states, were sent the opt-out notice included as Attachment 1. Following an explanation of the customer's CPNI rights, customers were instructed to call a toll free number, available at no charge twenty-four hours a day, seven days a week, if they desired to opt-out. The notice included the following number: 1-800-311-4444, rather than the correct number – 1-800-311-4443. If the incorrect number was called, the customer was unable to opt-out. These notices were sent to 234 customers in January, 2003; 2340 customers, in February, 2003; and 478 customers in March, 2003².

On August 19, 2003, BellSouth mailed a corrected opt-out notice (a sample copy of the corrected notice is included as Attachment 2) to each of these 3052 customers. BellSouth will treat these customers' accounts as "restricted" for at least the full thirty three (33) day period outlined in 47 CFR §64.2008(d) applicable to notices sent by mail. As used herein, "restricted" means that the CPNI in the referenced accounts will be used only in a manner consistent with the requirements and limitations of 47 CFR §64.2005 governing "Use of customer proprietary network information without customer approval." BellSouth has determined that following the filing of this letter with the Commission, it will notify state commissions in its in-region states of the occurrence of these events.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary L. Henze". The signature is fluid and cursive, with the first name "Mary" being the most prominent.

Mary L. Henze

cc: Michelle Carey, Chief, Competition Policy Division, Wireline Competition Bureau
K. Michele Walters, Chief, Policy Division, Consumer and Governmental Affairs Bureau
Marcy Greene, Competition Policy Division, Wireline Competition Bureau

² When this issue was first discovered by BellSouth in late February, 2003, the March, 2003 notices were still sent with the incorrect number. Corrective notices, with the proper number, were sent to the March, 2003 customers soon after mailing of the erroneous notice.

Attachment 1

"This Notice Contains Important Information Concerning Your Customer Information Rights"

Federal regulations permit BellSouth to use information about your business' telecommunications services to recommend other categories of products and service to you, unless you notify us otherwise. This applies to information on telecommunications services you buy from BellSouth, including the types of services you receive, how much you use them, how we provide them to you and calling/billing records. BellSouth will use this information to offer you valuable new and additional services.

Only those companies that now or in the future sell BellSouth services, including our agents and authorized sales representatives, will use this information. Those companies are referred to as "BellSouth", herein, and include BellSouth Telecommunications, BellSouth BSE, BellSouth Entertainment, BellSouth Long Distance, Cingular Wireless, BellSouth Advertising & Publishing, and any other current or future direct or indirect subsidiaries of BellSouth Corporation.

BellSouth will protect this information regardless of whether you approve or disapprove our use of this information. You have the right to have your account treated confidentially and BellSouth has a duty under Federal law to protect the confidentiality of that information.

You can always change your mind about our use of this information by simply calling us. Your instructions to us will remain in effect until you tell us you've changed your mind. Your choice will not affect the provision of any service to which you subscribe.

Unless you tell us not to use your business' information, we will continue to use it as described above. However, if you prefer that we only use your information to provide you with information on the types of products and services to which you already subscribe call us at 1-800-311-4444. This number will be available 24 hours a day, 7 days a week at no cost to you.

Attachment 2

"This Notice Contains Important Information Concerning Your Customer Information Rights"

Federal regulations permit BellSouth to use information about your business' telecommunications services to recommend other categories of products and service to you, unless you notify us otherwise. This applies to information on telecommunications services you buy from BellSouth, including the types of services you receive, how much you use them, how we provide them to you and calling/billing records. BellSouth will use this information to offer you valuable new and additional services.

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BellSouth will protect this information regardless of whether you approve or disapprove our use of this information. You have the right to have your account treated confidentially and BellSouth has a duty under Federal law to protect the confidentiality of that information.

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Unless you tell us not to use your business' information, we will continue to use it as described above. However, if you prefer that we only use your information to provide you with information on the types of products and services to which you already subscribe call us at 1-800-311-4443. This number will be available 24 hours a day, 7 days a week at no cost to you.